

Service Date: November 16, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE COMPLAINT OF)
Robbin G. Hoch,)

Complainant,)

-vs-)

Colstrip Community Services Co., a)
Montana Power Company subsidiary,)

Defendant.)

UTILITY DIVISION

DOCKET NO. 89.9.34

ORDER NO. 5433

ORDER DISMISSING COMPLAINT

On October 4, 1989, under this docket, the Montana Public Service Commission (Commission) served notice of the Complaint of Robbin G. Hoch against Colstrip Community Service Co. (CCSC), requesting that the Commission order CCSC to refund monies paid for water and sewer services provided by agreement. Hoch alleged that CCSC was operating illegally in that it was an unregulated utility.

On October 24, 1989 CCSC filed its Answer and motions to dismiss the complaint for failure to state a cause of action upon which relief can be granted and for lack of jurisdiction to grant the relief requested. As an affirmative defense, CCSC further claimed that it had provided generalized services, including sewer and water, by agreement with approximately 300

accounts as a town service fee and/or that Mr. Hoch, et al., had received the value of those services, including water. Therefore, Mr. Hoch was not entitled to a refund.

The Commission at a duly noticed work session on November 8, 1989 voted to dismiss the Complaint, finding that the Commission exercised no jurisdiction at the time over the services provided by agreement. The Commission has no authority to order the refund requested. The Commission may order refunds only under very limited circumstances, such as interim rate approval or when there is a deviation from a rate schedule on file with the Commission. The Commission had not set the charges agreed upon and may not invalidate the existing contracts. Furthermore, the rates were not earmarked particularly to water service. The Commission noted at the work session that it has not assumed jurisdiction over sewer rates to this date.

CCSC has notified the Commission in its Answer of its intention to file initial rates for the component of the town service fee attributable to costs of providing water service. Otherwise, the Commission would have issued an order to show cause directing CCSC to come before it and answer as to whether it should be regulated.

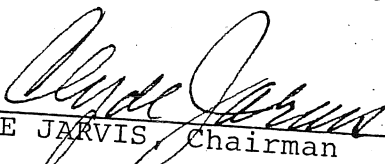
Wherefore, the Commission enters the following order:

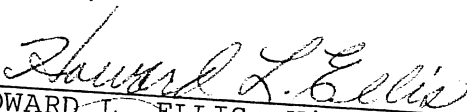
1. The Complaint shall be dismissed for lack of jurisdiction.
2. Colstrip Community Services Co. shall file tariffs with the Commission on water service it provides to

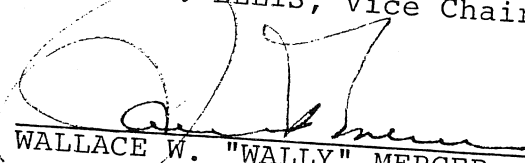
the community of Colstrip, Montana, as asserted, in
January, 1990.

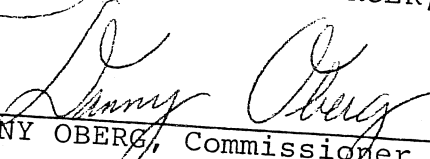
Done and Dated this 8th day of November, 1989 by a vote of
4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION



CLYDE JARVIS, Chairman


HOWARD L. ELLIS, Vice Chairman


WALLACE W. "WALLY" MERCER, Commissioner


DANNY OBERG, Commissioner

ATTEST:


Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission
reconsider this decision. A motion to reconsider must
be filed within ten (10) days. See ARM 38.2.4806.